IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5709 OF 2007

Jayashri Ganpat Parchande] .. Petitioner

Versus

1. State of Maharashtra & 3 ors.] .. Respondents

Mr. R.K. Mendadkar and Ms. H.K. Mandlik for the petitioner.

Mr. R.D. Rane, GP, for the respondents No.1, 2 & 4.

CORAM: S.B. MHASE &
D.G. KARNIK, JJ.

DATED: 16TH OCTOBER, 2007

P.C. :

1. Heard.

2. Rule. By consent, Rule is made returnable forthwith.

3. By this petition, the petitioner challenges the order of the Scheduled Tribes Certificate Scrutiny Committee dated 25th April, 2007, invalidating the petitioner's claim of belonging to Mahadeo Koli scheduled tribe. The caste claim of the petitioner was rejected on the ground that the petitioner had not

submitted explanation for the vigilance cell report which was adverse to the petitioner and that he had failed to attend the hearing before the Scrutiny Committee.

4. The grievance of the petitioner is that neither the report of the Vigilance Cell nor the notice of hearing was ever served on the petitioner. Mr. R.D. Rane, the learned Government Pleader appearing for the respondent fairly concedes that as per his instructions, the notice of hearing was not served on the petitioner before the date fixed for hearing, so also the report of the Vigilance Cell was not served on the petitioner. In the circumstances, the petitioner was not given an appropriate opportunity of hearing and representing his case. The order, therefore, stands vitiated and is required to be set aside and the matter is required to be remanded back for fresh enquiry.

5. Accordingly, Rule is made absolute in the following terms. The impugned order is set aside and the matter is remanded back to the Scheduled Tribe Certificate Scrutiny Committee for hearing afresh. The petitioner shall appear before the Committee on 29th October, 2007. No further notice of the date of hearing is necessary and notice of hearing is waived by the

petitioner through his counsel. The Committee shall, however, serve a copy of the report of the Vigilance Cell if it is adverse to the petitioner and give opportunity to the petitioner to submit his explanation and pass an order after hearing the petitioner.

6. We are informed that in the meanwhile, services of the petitioner have been terminated. The petitioner is at liberty to make a representation to the employer in view of the fact that the order of the Scrutiny Committee has been set aside.

Sd/-
[D.G. KARNIK, J.]

Sd/-
[S.B. MHASE, J.]